



**COMMONWEALTH of VIRGINIA**  
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November 28, 2005

Robert B. Stroube, M.D., M.P.H.  
State Health Commissioner  
Department of Health  
P.O. Box 2448  
Richmond, Virginia 23218-2448

**Amendments to the Biosolids Use Regulations: Enforcement, Management Practices**

Dear Dr. Stroube:

I have reviewed proposed amendments to the *Biosolids Use Regulations*, 12 VAC 5-585-70 *et seq.*, dated October 27, 2005, that provide guidelines for disputes involving local ordinances and requirements for development of management practices plans to protect odor sensitive receptors, ensure permit compliance and address nutrient management concerns. Virginia Department of Health staff prepared these amendments in response to legislation passed by the General Assembly (SB 1088, Acts of Assembly c. 681, 2003; HB 2624, Acts of Assembly c. 593, 2005) and signed into law by the Governor, amending *Code of Virginia* §§ 32.1-164.5 and 32.1-164.7.

It is my view that the Board of Health, contingent on approval by the Governor, has legal authority to promulgate the subject amendments pursuant to *Code of Virginia* § 32.1-164.5.

The purpose of this communication is to provide legal advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency or board and this communication should not be construed as a comment for or against the merits of such action.

Sincerely,

D. Nelson Daniel  
Assistant Attorney General

cc: Robert W. Hicks  
Calmet M. Sawyer, Ph.D., P.E.